

**Draft Summary of the Environmental Work Group Meeting
Oroville Facilities Relicensing (FERC Project No. 2100)
September 26, 2001**

The Department of Water Resources (DWR) hosted the Environmental Work Group meeting on September 26, 2001 in Oroville.

A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary of the discussion for information purposes to interested parties who could not attend the meeting. The following are attachments to this summary:

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Flip Chart Notes
Attachment 4	Endangered Species Act – Presentation
Attachment 5	Joint National Marine Fisheries Service and US Fish and Wildlife Service Presentation
Attachment 6	Revised Issue Sheets – September 26, 2001
Attachment 7	Draft Study Plan Development Schedule
Attachment 8	Draft Study Plan Template with Descriptions
Attachment 9	Example Studies from the Mokelumne River Relicensing

Introduction

Attendees were welcomed to the Environmental Work Group meeting and objectives were discussed. Participants agreed to alter the meeting agenda to allow the ESA presentation to come before all other agenda items. The meeting agenda and list of meeting attendees with their affiliations are appended to this summary as Attachments 1 and 2, respectively. Flip chart notes taken during the meeting are included as Attachment 3.

ESA Section 7 Presentation and Discussion

Michael Morse of the US Fish and Wildlife Service (FWS) provided a brief overview of the basic elements of Section 7 of the Endangered Species Act (ESA). Mike referenced the Interagency Task Force (UTF) Report, Improving Coordination of ESA Section 7 Consultation with the FERC Licensing Process (distributed at the May 23, 2001 Environmental Work Group meeting), stating that the ITF Report identifies nine or ten questions fundamental to good coordination between ESA Section 7 and the Alternative Licensing Process (ALP). He emphasized the need for early and consistent communication between the agencies responsible for ESA implementation and the collaborative relicensing ALP. He noted that this relicensing effort is still in the early phases allowing the opportunity for early consultation on ESA issues. As he introduced Brian Cordone, Michael asked that questions on defining terms be asked during the presentation, while questions related to the process be reserved for after the presentation.

ESA Overview

Brian Cordone of the FWS provided a general overview of Section 7 ESA definitions, consultation requirements, the informal consultation process, biological assessments, and formal consultations. He emphasized the differences between direct, indirect and cumulative impacts. He also explained interrelated and interdependent actions, and the definition of action area. Slides used to describe these concepts were distributed to participants and are appended to this summary as Attachment 4.

Mike Meinz of the Department of Fish and Game asked if interrelated and interdependent analysis apply only to the federal nexus. Brian responded that these are the standard criteria. Steve Edmondson of National Marine Fisheries Service (NMFS) added that they apply whether the activity is public or private. He explained that a 'but for' test is applied when determining if an action requires analysis. For example, a road on BLM land (public agency) leads to a shopping mall (private developer). 'But for' the road, the mall could not be developed.

Sharon Stohrer of the State Water Resources Control Board asked if the 'but/for' test applied to the impacts from the Oroville Facilities. For example, 'but for' the dam, the water, and subsequent development attributed to it, perhaps would not have been possible. She pointed out that in this example, the action area for ESA could extend to Southern California. Michael Morse asked that the process discussion wait until the end of the presentation.

NMFS and FWS Presentation on Environmental Analysis

Steve Edmondson provided the Environmental Work Group with an overview of NMFS and FWS efforts to develop a process to determine the scope of environmental analysis for the Oroville Facilities Hydroelectric Project relicensing. Steve explained that the presentation was based on the requirements of Section 7 and includes the relevant guidelines from NEPA, CEQA and the Federal Power Act (FPA). The presentation should help the Environmental Work Group understand NMFS and FWS recommendations on project scope once they have been developed. He stressed to participants that the relicensing effort addresses more than Section 7 issues and under the FPA, FERC is the action agency and FWS and NMFS are commenting agencies with mandatory conditioning authority. He explained that mandatory conditioning authority provides NMFS and FWS with a different set of actions than they typically consider under strict ESA analysis. Steve informed the Environmental Work Group that the presentation would be formally submitted to FERC and would be the basis for making a determination on the scope of environmental analysis for ESA consultation. The presentation was distributed to the Environmental Work Group and is appended to this summary as Attachment 5.

One participant asked if a Biological Opinion (BO) or other recommendation made by FWS and NMFS could be amended if it is discovered the science or results are found to be inadequate over time. He also asked if economic considerations are included in the analysis. Steve Edmondson responded that under NEPA guidelines you couldn't reverse a recommendation; in order to change the finding a new analysis would be required. Section 7 however, includes a provision to reassess a Biological Opinion. Under FERC guidelines there are provisions to re-evaluate a recommendation once a license has been issued. Steve added that FERC would be required under NEPA to do socioeconomic impacts analysis and under FPA guidelines, FERC needs to balance all the benefits and stakeholder needs in the action area.

One participant asked what the cumulative impacts are for this project, both inside and outside the FERC project boundary. Steve Ford responded that there are three Issue Sheets dealing directly with cumulative effects analysis and a draft approach to address cumulative impacts is being considered by DWR. He suggested that a task force be formed to provide input on the draft approach. He also suggested that cumulative effects analysis be considered for the second year of studies as more information is developed.

One participant observed that the NMFS/FWS proposal seems to indicate that the Oroville Facilities scope includes the entire State Water Project. Given the stated goal of the State Water Contractors to limit the scope of analysis to project related impacts, he pointed out how critical the need for clarity is in describing the scope of the analysis. He added that it is important to efficiently use the resources of the relicensing effort by focusing the scope of the analysis and the entire state seems too large. Gary Taylor of FWS responded that the relicensing of the Oroville Facilities has statewide implications. Determining the scope of the analysis necessary to satisfy Section 7 requirements is critical and FWS would be advising DWR on their recommendations as soon as

feasible. Gary stressed that an approach had not been developed, but he envisions a screening process that would consider listed or 'at risk' species and determine the impact of project operations on each. He emphasized that the assessment needed to be scientifically defensible and that the Central Valley Project Improvement Act and CALFED projects both have been through this process so we can use their efforts and avoid repeating processes or actions from other applicable work already completed.

Wayne Dyok of DWR's consulting team noted that in an earlier Environmental Work Group meeting, the ESA-responsible agencies agreed to meet and flesh out a draft screening process. Gary responded that he anticipated the agencies would meet with Environmental Work Group members if a Task Force were formed to begin drafting the screening process. The Task Force could advise the Environmental Work Group on what information the responsible agencies would need to make the screening process work. The information should help make the Biological Assessment complete.

Mike Mainz asked if FWS had a working description of the scope of the analysis for the relicensing effort. Jan Knight of the FWS responded that they did not have enough information to adequately address the question but it depends on the action area of the project, which could be very large. She added it would depend on their investigations of the impoundment, release, and use of the water. Steve Edmondson suggested that in the absence of any solid information, the scope could extend to the Golden Gate but as information is gathered, the scope can be refined and potentially reduced in size. He emphasized that not all the aspects of the project impacts will be studied to that point.

Mike Mainz pointed out that the Environmental Work Group has been trying to define the scope, but that the effort now seems of little value until the FWS and NMFS provide their input. Wayne Dyok responded that the Environmental Work Group efforts have been valuable since many of the Issue Sheets address issues that have nothing to do with ESA. Jan Knight added that FERC will have a proposed action (and alternative actions) and FWS will assess the impacts of those actions. In the case of the SWP, FWS will follow the water and not necessarily stay within the FERC boundary. Jan added that scope is defined differently in the different laws, but FWS follows the impacts wherever they occur.

Sharon Stohrer stated that the action FERC is taking is the relicensing of the power plants in the Oroville Facilities. These are considered a small feature of the SWP that may have impacts on the environment above and below the Oroville Facilities. She asked if by definition the FWS would include the entire SWP and its components because they are interrelated? Jan Knight responded that FWS looks for the effects of the project and would begin their assessment of scope with the entire SWP. From that point, additional information would be gathered to help focus the scope. Gary Taylor added that the release of water through the power plant is critical to the environment well beyond the immediate areas adjacent to the Oroville Facilities. He added the FWS assessment would attempt to tease out hydropower delivery from the impacts the project has on the rest of the system.

Rick Sitts of the Metropolitan Water District asked if there was a timeframe for FWS to make their recommendation on scope. Jan Knight responded that it is an iterative process that will become refined as information is gathered. Potentially, information from the first year studies may show that the study plans are inadequate, therefore necessitating a change in scope. Gary Taylor added that early consultation with FWS and NMFS should reduce the likelihood of that scenario. Michael Morse suggested that it would be helpful if DWR could prepare a briefing on project operations and hydropower generation for the ESA group of the FWS, similar to the presentation given by Curtis Creel at previous Work Group meetings. This would be very helpful in defining scope. Steve Ford agreed to arrange a briefing.

Cumulative Effects Approach

Wayne Dyok reported that the Environmental Work Group, because of their role in the ESA process, has been identified as the Work Group to take the lead in developing cumulative effects analysis guidelines. The draft guidelines would be distributed to the other Work Groups for their review and comment. Once completed at the Work Group level, the guidelines would be submitted to the Plenary Group for adoption. Wayne suggested the formation of a Task Force to develop draft language for Environmental Work Group review. The Task Force would integrate NEPA, ESA and FERC guidance as well as information from the Council of Environmental Quality. Wayne noted that the guidelines could be more than a literature search and should be tailored to the Oroville Facilities relicensing effort. The Task Force would prepare a study plan including analytical approaches, geographic boundaries, and information requirements. Steve Ford emphasized that the Task Force would report to the Environmental Work Group first and it was likely that the process would take several meetings so there would be opportunities for participants to comment without actually attending in the Task Force meetings. Michael Morse and Gary Taylor agreed with the above approach and indicated FWS would be happy to comment during the process. One participant asked that DWR's teleconferencing facilities be made available for these Task Force meetings.

Sharon Stohrer observed that the Task Force might require expertise from participants in other Work Groups. She asked how this expertise would be integrated into the Task Force recommendation. Steve Ford responded that the emphasis would be on Environmental Work Group participation in the short-term. He added that the Resource Area Managers (RAMs) were following this process and were prepared to bring in other expertise as required. With Study Plan development moving ahead, it is important to prepare the guidelines quickly so that the Work Groups will have enough time to provide comment.

The following individuals were identified to participate in the Task Force: Ron Davis, Patrick Porgans, DC Jones, Steve Rothert, Sharon Stohrer, Richard Roos-Collins, Chuck Hansen, Mike Melanson, and one representative each from FWS, DFG and NMFS.

Action Items – August 22, 2001 Environmental Work Group Meeting

A summary of the August 22, 2001 Environmental Work Group meeting is posted on the relicensing web site. The Facilitator reviewed the status of action items from that meeting as follows:

Action Item #E39:	Revise Geographic Scope to allow for expanding range of options regarding scope if warranted.
Status:	Revision was made.
Action Item #E40:	Provide regulatory basis for study scope for NMFS and USFWS.
Status:	On-going.
Action Item #E41:	Notice on-going communications with small technical groups to assist with development of study plans and provide updates of ALP in appropriate periodicals (project newsletter, local newspaper).
Status:	On-going.
Carryover Action Items	
Action Item #E31:	Presentation and discussion of ESA Section 7.
Status:	A presentation of ESA Section 7 will be made at this Environmental Work Group meeting.
Action Item #E32:	Provide Environmental Work Group with detailed outline of study plan for review and comment. Comments on outline are due to DWR within 5 days of receipt.
Status:	Steve Ford of DWR reported that the outline developed by the Resource Area Managers has been distributed for review and comment.
Action Item #E33:	DWR staff to prepare revised Issue Sheets for Environmental Task Force review and comment.

Status: Steve Ford reported that the September 11th Task Force meeting was cancelled but the Task Force did meet on September 18th. Some of the participants in the September 18th meeting provided their comments on Issue Sheets, which were to be discussed at the September 11th meeting. The revised Issue Sheets were distributed to the Environmental Work Group for review.

Issue Sheet Development

The Environmental Work Group reviewed, revised and completed Issue Sheets F1, F5, F8, F11, F13, F14, F16, T1, T9, W4, W7, W 8, W 11, W12, W14, W15, and W18. The revised Issue Sheets are appended to this summary as Attachment 6. The following paragraphs summarize additional comments or discussions beyond the revisions reflected in Attachment 6.

F1

The Environmental Work Group discussed the need to develop a conceptual model showing project operations and their effect on biological resources. The model could be used to identify the information required to assess the impacts. Wayne Dyok reported that the Engineering and Operations Work Group is developing a model that shows the impacts of project operations on some physical factors, including water temperature. He added that the Engineering and Operations Work Group has developed a tracking document that shows linkages between the studies in the various Work Groups. Chuck Hanson of the SWC pointed out that a conceptual model would also help organize resources coming from different Work Groups or sources. The model could help assure that important information is not missed or duplicated. Participants requested that the coordinating linkage document prepared by the Engineering and Operations Work Group be distributed to the Environmental Work Group.

F11

Participants discussed the need to clearly identify the geographic scope as it relates to project operation impacts on compliance and adequacy of flow constraints, specifically, whether the stated scope to the mouth of the Feather River was scientifically defensible. Steve Edmondson added that each study plan needed a defensible geographic scope based on relevant information. For now, the scope can be rather large and vague and become more focused as additional information is acquired. For example, discharges to the river can be measured (water temperature) as they move downstream. At some point the impacts are imperceptible. The location where the impact can no longer be determined would be a logical place to set the geographic scope for that specific impact. Steve Ford stated that a major challenge for DWR is identifying where the impacts are likely and where the studies need to be implemented. DWR is asking participants to help focus their efforts by providing guidance and information as required.

Sharon Stohrer suggested that the geographic scope of each Issue Sheet should reflect the iterative nature of the process. Steve Ford cautioned that two-thirds of the Issue Sheets are done and many of them have draft work plans. He suggested that the information be added to the Study Plan Template.

Mike Meinz asked that an evaluation of water transfers from the Yuba River be included as an Information Need. He said there is some evidence that Feather River fish are being attracted into the Yuba River. He added that this issue should be included in the cumulative effects analysis as well.

W4

Sharon Stohrer requested an Information Need be included that considers alternative sources of water to satisfy temperature-specific water demands. For example, rice growers currently receive warm water from the Afterbay for their crops. Treated water from Oroville could be diverted as a

new source of water to the rice growers thereby reducing the temperature demand on Afterbay water. She suggested there are competing interests in water temperature regimes and having information on alternative water sources would be useful to address both needs and to consider alternatives in the future. The participants discussed the need to focus first year studies on impacts and defer studies designed to evaluate potential alternatives or mitigation strategies for the second year. DWR suggested that Issue Sheet 11 would be a more appropriate place for this addition and Sharon agreed. The Work Group agreed to add the following sentence to the Information Needs in Issue Sheet W11, "Evaluate the temperature effects from other significant discharge sources and diversion points on the project's ability to meet water temperature requirements downstream."

Study Plan Outline and Schedule

Schedule

A draft schedule for developing study plans was distributed to the Environmental Work Group and is appended to this summary as Attachment 7. Steve Ford explained that Study Plans would be developed in batches similar to the method used to develop the Issue Sheets. The Environmental Work Group discussed key decision-making points and the final date for delivering draft Study Plans to the Plenary Group and established the following Task Force schedule:

Batch 1		
	October 12	Round 1 -- Geo/Water Quality (Part 1)
	November 1	Round 2 -- Geo/Water Quality (Part 1)
Batch 2		
	October 23	Round 1 -- Terres/Water Quality (Part2)
	November 13	Round 2 -- Terres/Water Quality (Part2)
Batch 3		
	October 24	Round 1 -- Fisheries
	November 14	Round 2 -- Fisheries

The meetings will be held from 9:30 a.m. to 3:00 p.m. (locations to be determined). The Environmental Work Group meeting for October 24th was cancelled and replaced with a Task Force meeting. The Environmental Work Group agreed to meet again on November 28th.

Study Plan Template

Steve Ford distributed to the Environmental Work Group a draft template describing the various elements critical to study plan development. The handout included examples for two generic studies. He asked that all comments on the template be directed to him.

Rick Sitts asked if conceptual models would be described during this phase of the process. Steve responded they would. Wayne Dyok suggested a preface be added to the set of study plans that identifies how models and other coordinating efforts are addressed.

Chuck Hanson suggested that a level of effort and budget be included in the template. Chuck also observed that in order to understand the level of complexity and scientific detail required for a study, it would be useful to have an example of a water quality study that had been completed as part of a relicensing effort. Wayne responded that FWS had provided studies from the Mokelumne River relicensing effort to the Task Force that might be useful. Wayne stressed that the format of the studies was different from the approach being used in this effort; however, the examples would provide an indication of the level of complexity required for a successful study. The studies will be appended to this summary as Attachment 8. DWR also agreed to provide a link at the relicensing web site to Southern California Edison's Big Creek relicensing studies.

Next Meeting

The Environmental Work Group agreed to meet on:

Date: November 28, 2001
Time: 9:30 a.m. to 3:00 p.m.
Location: To be determined.

Agreements Made

The Environmental Work Group agreed to the following:

1. Use the time scheduled for the October Environmental Work Group meeting as focused Task Force meeting.
2. The Environmental Work Group agreed to convene the Study Plan Task Forces on October 12, 23, 24 and November 1, 13, and 14, 2001 to develop draft Study Plans.
3. The Environmental Work Group agreed to review draft Study plans from these meetings and provide comments at their next meeting.

Action Items

The following list of action items identified by the Environmental Work Group includes a description of the action, the participant responsible for the action, and due date.

Action Item #E39: Develop draft cumulative effects study plan for Environmental Work Group review.

Responsible: Cumulative Effects Task Force

Due Date: November 20, 2001

Action Item #E40: Brief FWS ESA staff on Oroville Facilities operations and hydropower production.

Responsible: DWR staff, consulting team

Due Date: November 20, 2001

Action Item #E41: Distribute coordinating linkage document prepared by the Engineering and Operations Work Group to the Environmental Work Group.

Responsible: DWR staff, consulting team

Due Date: November 20, 2001

Action Item #E42: Draft study plans for Environmental Work Group review.

Responsible: Study Plan Task Forces

Due Date: November 20, 2001

Action Item #E43: Include Mokelumne River relicensing studies with the Environmental Work Group summary and provide link at the Oroville Facilities relicensing web site to Southern California Edison's Big Creek relicensing web site.

Responsible: DWR Staff/Consulting team

Due Date: November 20, 2001